

REMARKS

Summary Of The Office Action & Formalities

Status of Claims

Claims 1-13 and 16-21 are all the claims pending in the application. By this Amendment, Applicant is amending claims 1, 8-12, and 16-20, and adding new claims 22-24. No new matter is added. Submitted herewith is an Excess Claim Fee Payment Letter with fee.

Claim Rejections - § 112

Claims 1-13, 16-18 and 20 are rejected under 35 U.S.C. § 112, second paragraph, for the reason set forth at pages 2-3 of the Office Action. Applicant is amending the claims to overcome this rejection.

Allowable Subject Matter

Claims 4-7, 13, 16, and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Art Rejections

1. Claims 1-3 and 18 are rejected under 35 U.S.C. § 102(b) as being anticipated by Jimenez (US 5,709,320).
2. Claim 8 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Jimenez (US 5,709,320).
3. Claims 9-11 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Jimenez (US 5,709,320) in view of Garcia et al. (US 6,698,627).

4. Claim 12 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Jimenez (US 5,709,320) in view of Bachand et al. (US 5,234,132).

5. Claims 19-21 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Jimenez (US 5,709,320).

Applicant respectfully traverses.

Claim Rejections - 35 U.S.C. § 102

1. Claims 1-3 And 18 In View Of Jimenez (US 5,709,320).

In rejecting claims 1-3 and 18 in view of Jimenez (US 5,709,320), the grounds of rejection state:

Jimenez discloses a fluid dispenser assembly as seen in Figure 1, which comprises a fluid dispenser having a wrapper (22) encasing the dispenser at least in part (col. 2, ll. 25-33), the wrapper defining at least one application zone that contacts the dispenser as seen [in] Figure 1, wherein the wrapper comprises outer side edges (24) by which the assembly is held securely in a hand as seen in Figure 1, wherein the dispenser comprises a body (14) forming at least one substantially cylindrical segment, the segment defining an affixing zone that contacts the application zone of the wrapper as seen in Figure 1, and the dispenser further comprises a dispenser head (52) that actuates the dispenser when depressed while holding the wrapper by the outer side edges (col. 3, ll. 10-23).

Office Action at page 4. Applicant respectfully disagrees.

Jimenez discloses a spray device having a canister 12 provided with a surrounding mounting sleeve 22 that is connected to a handle ring 24 configured to be gripped by a finger. The user of the device may hold it by the ring with the middle finger and press the push button with the thumb as shown in Fig. 1a of the patent.

Even if, assuming for the sake of argument alone, the sleeve 22 is considered a wrapper as recited in claim 1, one skilled in the art would never consider the ring as outer side edges thereof. The ring connects the sleeve at an outer side edge of the sleeve, but it is not an edge of the sleeve. Nevertheless, in order to further clarify this difference, Applicant has amended claim 1 to recite that “the wrapper comprises two outer side edges.” The ring certainly can not be considered as two outer edges of the sleeve.

In view of at least the foregoing difference, the Examiner is kindly requested to reconsider and withdraw the rejection of claims 1-3 and 18.

Claim Rejections - 35 U.S.C. § 103

1. Claim 8 Over Jimenez (US 5,709,320).

In rejecting claim 8 over Jimenez (US 5,709,320), the grounds of rejection state:

Jimenez has taught all the features of the claimed invention except that the application zone of the sheet extends substantially over nearly one half of the periphery.

At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to modify Jimenez's at least one application zone of the sheet to extend substantially over nearly one half of the periphery of the substantially cylindrical segment, because applicant has not disclosed that having the at least one application zone of the sheet to be extended substantially over nearly one half of the periphery of the substantially cylindrical segment provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected applicant's invention to perform equally well with Jimenez's application zone because, Jimenez's application zone holds firmly the container.

Therefore, it would have been an obvious matter of design choice to modify Jimenez's application zone to obtain the invention specified in claim (8).

Office Action at pages 4-5.

Without agreeing to or substantively commenting on the grounds of rejection of claim 8, Applicant submits that this claim is allowable at least by reason of its dependency.

2. Claims 9-11 Over Jimenez (US 5,709,320) In View Of Garcia et al. (US 6,698,627).

In rejecting claims 9-11 over Jimenez (US 5,709,320) in view of Garcia et al. (US 6,698,627), the grounds of rejection state:

Jimenez has taught all the features of the claimed invention except that the at least one sheet has a face that is adhesive at least in part. Garcia et al. teach the use of a[t] least one sheet (41) having a face with an adhesive (col. 4, ll. 51-60).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the teaching of Garcia et al. onto the at least one sheet of Jimenez, in order to hold in place the at least one sheet, which is a well-know[n] fixing technique.

Office Action at page 5.

Without agreeing to or substantively commenting on the grounds of rejection of claims 9-11, Applicant submits that these claims are allowable at least by reason of their respective dependencies.

3. Claim 12 Over Jimenez (US 5,709,320) In View Of Bachand et al. (US 5,234,132).

In rejecting claim 12 over Jimenez (US 5,709,320) in view of Bachand et al. (US 5,234,132), the grounds of rejection state:

Jimenez has taught all the features of the claimed invention except that the head being capped by a removable protective cap. Bachand et al. teach the use of a dispenser head (16) being capped by a removable protective cap (20).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the removable cap of Bachand et al. onto Jimenez's dispenser head as taught in (col. 3, ll. 18-23), in order to completely cover the dispenser head and to prevent inadvertent dispensing of material from the container.

Office Action at page 6.

Without agreeing to or substantively commenting on the grounds of rejection of claim 12, Applicant submits that this claim is allowable at least by reason of its dependency.

4. Claims 19-21 Over Jimenez (US 5,709,320).

In rejecting claims 19-21 over Jimenez (US 5,709,320), the grounds of rejection state:

Jimenez discloses a fluid dispenser assembly as seen in Figure 1, which comprises a dispenser (col. 2, ll. 25-31), a dispenser head (52) that actuates the dispenser when depressed (col. 3, ll. 10-23), a wrapper (22) encasing at least a portion of the dispenser and defining at least one application zone that contacts the dispenser as seen [in] Figure 1, wing (24) that extends away from the dispenser and the dispenser head extends beyond the wrapper as seen in Figure 1, wherein the dispenser assembly is structured to be actuated by gripping at least one wing while depressing as seen in Figure 1. Jimenez lacks that the wrapper includes wings.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to duplicate Jimenez's wing, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. As per MPEP 2144.04

Office Action at pages 6-7.

Applicant has amended claim 19 to remove the language "at least one of" before "wings" at the end of the claim.

The duplication of Jimenez's ring 24 would not have been merely routine, as stated in the grounds of rejection. Aside from the fact that the prior art does not teach or suggest this feature, there is simply no logical reason to provide the sleeve with a second ring. This would not be convenient or practical and add to the complexity and expense of the device. Furthermore, it would be contrary to the disclosed operation of the spray device and render it extremely difficult if not impossible to operate with both rings.

Furthermore, the second ring would be located just above the spray orifice, so that the spray could be disturbed by the hand of the user. The duplication of the ring is only theoretical and has no practical application.

In view of at least the foregoing difference, the Examiner is kindly requested to reconsider and withdraw the rejection of claims 19 and 20. Claim 21 is also allowable at least by reason of its dependency.

New Claims

For additional claim coverage merited by the scope of the invention, Applicant is adding new claims 22-24. Claim 22 is also allowable at least by reason of its dependency. Claim 23 is believed to be allowable at least because it recites that "the wrapper is made up of two sheets that are shaped to match the shape of the dispenser at least in part, each sheet defining at least one application zone," which is also recited in allowable claim 4. Claim 24 is believed to be allowable at least because it recites that wherein the dispenser assembly is structured to be actuated by gripping opposite side edges of the wrapper while depressing the dispensing head,

the side edges of the wrapper extending longitudinally in a direction parallel to a longitudinal direction of the dispenser.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

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